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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,902	06/26/2001	Michael J. Stickney	ESG-030388-US	1417

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EXAMINER

MEDLEY, MARGARET B

ART UNIT PAPER NUMBER

1714

6

DATE MAILED: 02/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/891,902

Applicant(s)

STICKNEY ET AL.

Examiner

Margaret B. Medley

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 20-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21, 24, 32-35, 38-44 and 65-69 is/are rejected.
- 7) ☒ Claim(s) 22-23, 25-31, 36-37 and 45-64 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-7, 9, 11, 19, 32-35, 38, 41 and 44 for reasons made of record in Paper No. 4 dated July 16, 2002 remain rejected under 35 U.S.C. 102(b) as being clearly anticipated by Killick et al (Killick) WO 95/02654.

Claims 1, 6, 14, 19, 32-34 and 38-40 for reasons made of record in Paper No. 4 dated July 16, 2002 remain rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sieg et al (Sieg) 3,903,251.

Claims 1-3, 5-11, 14, 19, 32-35 and 43-44 for reasons made of record in Paper No. 4, dated, July 16, 2002 remain rejected under 35 U.S.C. 102(b) as being clearly anticipated by Smith 4,394,133.

Claims 1-4, 6-8, 11, 19, 32-34, 38 and 43-33 for reasons made of record in Paper No. 4 dated July 16, 2002 remain rejected under 35 U.S.C. 102(b) as being clearly anticipated by Mayerhoffer (Mayerhoffer) 3,860,262.

Claims 1-3, 4-7, 9, 11, 19, 32-35, 38-40 and 43-44 for reasons made of record in Paper No. 4 dated July 16, 2002 remain rejected under 35 U.S.C. 102(b) as being clearly anticipate by Tunison 1,423,048.

Claims 1 and 15-18 for reasons made of record in Paper No. 4 dated July 16, 2002 remain rejected under 35 U.S.C. 102(b) as being clearly anticipated by Dorer et al (Dorer) 3,658,495.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 38-40 for reasons made of record in Paper No. 4 dated July 16, 2002 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Killick et al (Killick) WO 95/02654.

Claim 42 for reasons made of record in Paper No. 4 dated July 16, 2002 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Killick et al (Killick) WO 95/02654 and Dorer 3,658,495 as applied to claims 1 and 15-18 above, and further in view of Gyimah et al (Gyimah) 5,302,592

Applicant's arguments filed October 21, 2002 have been fully considered but they are not persuasive.

Applicants' claims are open-ended and would not exclude the alcohol of Killick.

Applicants' arguments with respect to Sieg are not relevant in that the instant claims do not require the presence of a percentage of oxygenate and therefore does not rebut the teachings of Sieg.

Applicants' arguments with respect to Smith are not relevant in that the instant claims do not require the presence of a percentage of oxygenate and therefore does not rebut the teachings of Smith.

Applicants' instant claims do not require the presence of any percentage of oxygenates and therefore does not rebut the teachings of Mayerhoffer.

Applicants' claims only require at least one compound of formula I and therefore is anticipated by the teachings of Tunison.

Dorer composition anticipates the instant claims even though it may contain cleaning properties.

The 103 rejections are maintained in that the instant claims do not require the presence of any range limitations to overcome the teachings of the prior art cited in the 103 rejections made of record.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret B. Medley whose telephone number is 703-308-2518. The examiner can normally be reached on Monday-Friday from 7:30 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

M. B. Medley/mn  
February 4, 2003

*Margaret B. Medley*  
MARGARET MEDLEY  
PRIMARY EXAMINER